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EXAMINER

PADMANABHAN, KAVITA

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/673,390
Filing Date: September 29, 2003
Appellant(s): HETTISH ET AL.

Randolph P. Calhoun
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/25/10 appealing from the Office action mailed 7/27/09.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Application Serial Number 10/673,846

Application Serial Number 10/673,522

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-7, 9-17, 20, and 21

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2002/0116336

Diacakis et al.

8-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-7, 9-17, and 20-21** are rejected under 35 U.S.C. 102(b) as being anticipated by **Diacakis et al.** (US 2002/0116336, hereinafter “Diacakis”).

In regards to **claim 1**, **Diacakis** teaches a method, comprising:

- interfacing an identity oriented context application that represents a context of an identity based on an availability of the identity with a device oriented context application that determines an availability or state of a device associated with the identity, where the identity is a person or a group of persons (**Diacakis; Fig. 1; Fig. 4 – presence detection engine interpreted as device oriented context system since it determines user’s presence on particular devices, and availability management engine interpreted as identity oriented context system since it determines user’s availability based on user’s situation; par [0026]; par [0044]-[0045]);**
- receiving a request to make a change to a new identity oriented context for an identity (**Diacakis; par [0034], lines 8-18 – “The presence detection engine 18 may detect a change in the individual's situation, as described further hereinafter, or the individual may communicate the change to the management server 12 directly” – the individual communicating the change to the server constitutes a request to change to a new identity oriented context; par [0046], lines 4-7; par [0048], lines 1-2), wherein said new identity oriented context is associated with said identity and provides an availability status of said identity (Diacakis; par [0031], lines 18-21 – “the individual may define a series of profiles that describe a situation that the individual may be in such as, for**

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example, "at home," "at office," or "on the road." – i.e., identity oriented contexts);

and

- mapping said new identity oriented context from said identity oriented application to a device oriented context from said device oriented application for a specific device associated with said identity (**Diacakis; par [0031], lines 21-25** – *“the individual may identify how he wishes to be communicated with for each profile”*; **Fig. 2** – shows mapping of identity oriented context “at office” to device oriented contexts, i.e. which devices are available to which subscribers when the individual is “at office”; **par [0035], lines 1-9**), wherein said device oriented context provides an availability or work status of the specific device (**Diacakis; par [0026]** - *“the wireless telephone is switched off, then that person is not present on a telephone network, and thus unable to communicate with others on the telephone network.”* - availability of the device, i.e. unavailable; **par [0045]** - *“determine the individual's current capabilities 58 such as, for example, whether he can receive voice information, data files, audio files, video files, etc.”*; **par [0057]** – identity oriented context is “at home” and device oriented contexts, i.e. availability of phone, IM, etc., are determined based on “at home” profile); and
- providing data indicative of said mapped device oriented context to a device context oriented application (**Diacakis; Fig. 8**).

In regards to **claim 2**, **Diacakis** teaches the method of claim 1, wherein said receiving said request to make said change to said new identity oriented context for said identity includes

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receiving said request from an identity context oriented application (**Diacakis; par [0034], lines 8-18; Fig. 4**).

In regards to **claim 3**, **Diacakis** teaches the method of claim 1, wherein said mapping said new identity oriented context to said device oriented context for said device associated with said identity includes determining said device (**Diacakis; par [0031], lines 18-25; Fig. 2**).

In regards to **claim 4**, **Diacakis** teaches the method of claim 3, wherein said mapping said new identity oriented context to said device oriented context for said device associated with said identity includes determining said device oriented context associated with said device (**Diacakis; par [0031], lines 18-25; par [0045]; Fig. 8**).

In regards to **claim 5**, **Diacakis** teaches the method of claim 1, wherein said mapping said new identity oriented context to said device oriented context for said device associated with said identity includes accessing a mapping table (**Diacakis; Fig. 2**).

In regards to **claim 6**, **Diacakis** teaches the method of claim 1, further comprising:

- determining said device (**Diacakis; par [0031], lines 18-25; Fig. 2**).

In regards to **claim 7**, **Diacakis** teaches the method of claim 1, further comprising:

- determining said device oriented context for said device (**Diacakis; par [0031], lines 18-25; par [0045]; Fig. 8**).

In regards to **claim 9**, **Diacakis** teaches the method of claim 1, wherein said providing data indicative of said device oriented context includes providing said data indicative of said device oriented context to a presence and availability service (**Diacakis; Fig. 4; Fig. 8**).

In regards to **claim 10**, **Diacakis** teaches the method of claim 1, further comprising:

- changing an identity oriented context for said identity from a first identity context to said new identity oriented context in response to said request (**Diacakis; par [0034], lines 8-18; par [0046], lines 4-7; par [0048], lines 1-2**).

In regards to **claim 11**, **Diacakis** teaches the method of claim 10, further comprising:

- providing data indicative of said new identity oriented context (**Diacakis; Fig. 8**).

In regards to **claim 12**, **Diacakis** teaches the method of claim 1, further comprising:

- registering with a presence and availability service (**Diacakis; par [0031]**).

In regards to **claim 13**, **Diacakis** teaches the method of claim 12, wherein said providing data indicative of said device oriented context further comprises providing said data indicative of said device oriented context to said presence and availability service (**Diacakis; Fig. 8**).

In regards to **claim 14**, **Diacakis** teaches the method of claim 1, further comprising:

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- detecting a new device oriented context for a second device, wherein said second device is associated with a second identity (**Diacakis; Fig. 8; par [0056], lines 9-17; par [0062], lines 1-12**); and
- mapping said new device oriented context to an identity oriented context for said second identity (**Diacakis; Fig. 8; par [0056], lines 9-17; par [0062], lines 1-12**).

In regards to **claim 15**, **Diacakis** teaches the method of claim 14, wherein said detecting said new device oriented context for said second device includes detecting said new device oriented context in a presence and availability service (**Diacakis; Fig. 4**).

In regards to **claim 16**, **Diacakis** teaches the method of claim 14, wherein said detecting said new device oriented context for said second device includes receiving a request to change said second device's device oriented context (**Diacakis; par [0029], lines 4-7; par [0031]; par [0034], lines 14-18; par [0053], lines 6-11; par [0057]**).

In regards to **claim 17**, **Diacakis** teaches the method of claim 14, wherein said mapping said new device oriented context to said identity context for said second identity includes determining said second identity (**Diacakis; Fig. 8; par [0056], lines 9-17; par [0062], lines 1-12**).

Claim 20 is rejected with the rationale given for claim 1.

Claim 21 is rejected with the rationale given for claim 1.

(10) Response to Argument

Claims 1-7, 9-17, 20, and 21 are Patentable

Appellant argues that Diacakis does not teach the claimed device oriented context application and mapping a new device oriented context to the identity oriented context.

Specifically, appellant argues that Diacakis does not teach the claimed device oriented context application. The examiner respectfully disagrees and refers to Fig. 1 and Fig. 4, reference character 18, of Diacakis, where the Presence Detection Engine constitutes the claimed device oriented context application.

The appellant incorrectly argues at page 7 of the Appeal Brief that the examiner is interpreting the P&A management server 12 of Diacakis to be equivalent to the claimed device oriented context application. This is not accurate. Rather, as set forth in the rejections above, the examiner is interpreting the Presence Detection Engine 18 of Diacakis to be equivalent to the claimed device oriented context application since it determines a user's presence on particular devices based on the availability of the devices (Diacakis; Fig. 1; Fig. 4; par [0026]).

Specifically, appellant argues that Diacakis determines a *user's* presence and not the availability of a *device*. The examiner respectfully disagrees and asserts that Diacakis clearly determines the availability of a device on a network by determining presence information for the device (Diacakis; par [0044]-[0045]), including determining whether a device is switched on/off (Diacakis; par [0026]).

For example, par [0026] of Diacakis recites, in part, “*the wireless **telephone is switched off**, then that person is not present on a telephone network, and thus unable to communicate with others on the telephone network.*” This teaches that if the phone is in a status of “off” the person

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is not present because ***the phone is unavailable***. Therefore, the presence provides an availability of the device, i.e. unavailable. Par [0045] of Diacakis recites, in part, “***Based on the presence information on such devices 44-52, the presence detection engine 18 may determine additional information about the individual***” and “***based on information regarding each of these devices 44-53 the presence detection engine 18 may determine the individual's current capabilities 58 such as, for example, whether he can receive voice information, data files, audio files, video files, etc.***” Therefore, Diacakis explicitly mentions determining presence information about particular **devices**.

Appellant goes on to argue that, in Diacakis, the presence detection engine is related to and oriented towards an individual, and not a device. The examiner respectfully asserts that, even assuming that is true, that does not in any way diminish the fact that Diacakis still teaches determining the context of particular devices, as evidenced above. Diacakis then uses the device oriented context information along with other information to determine a true availability of an identity, as set forth in the rejection above. More importantly, the examiner respectfully asserts that, as cited by the appellant on page 6 of the Appeal Brief, the appellant's own specification recites the following at page 5, lines 15-21 with respect to device oriented contexts: “***An identity may have one or more devices associated with it. Each device may have an associated device context. Context for a device may describe the work or non-work state, and/or the availability or non-availability state, that the device is in. For example, the person's office telephone may be busy, set to "do not disturb," automatic call forwarding, offline, etc.***” Therefore, the device oriented contexts, even according to the appellant's specification are related to and oriented towards an individual, or identity, at least in as much as the device oriented contexts of Diacakis

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are. In other words, in both Diacakis and the claimed invention, the devices are associated with an individual and the context of the device is used to determine the availability of the individual. Clearly, to determine an individual's presence on a device, the presence of the device is necessarily determined as well. For example, for a user to be present on a telephone or pda, the telephone or pda must be on and in an available communication network. Likewise, if a telephone or pda is determined to be off or unavailable, the user cannot be available on that device. However, just because the context and availability of the device naturally affects the context and availability of the associated individual does not take away from the fact that the context and availability of the device is indeed determined. Clearly, determining that a telephone is "off" constitutes determining an availability status of a specific device associated with an individual.

Appellant also states at page 9 of the Appeal Brief that the appellant agrees with the examiner's statement that the presence detection engine of Diacakis "determines a user's presence on particular devices." However, the appellant uses this to argue that the presence is therefore related to the user and not the device. The examiner respectfully asserts that, as explained above, determining a user's presence **on a device** necessarily includes, in the teachings of Diacakis, determining the status and availability **of the device**.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/K. P./

Primary Examiner, Art Unit 2161

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